PALMER
& ASSOCIATES

CERTIFIED PRACTISING ACCOUNTANTS

NEWSLETTER

AUGUST, 2018

In this newsletter we have compiled some of the latest ATO and State Government news to keep you up to date. Please do not hesitate to contact us if you require further information regarding the content and the impact it may have on you.

VACANT RESIDENTIAL PROPERTY TAX

About the initiative

Property owners that keep their property vacant effectively withdraw supply of occupiable properties from the market, thereby increasing pressure on prices and rents.

The Vacant Residential Property Tax is intended to encourage these owners to make their property available for purchase or rent, allowing Melbourne's current housing stock to be used efficiently. The tax will apply to the inner and middle areas of Melbourne, where the issue of housing affordability is most pressing.

There will be a number of practical exemptions applied, recognising there are some legitimate reasons for a property being left vacant.

The framework for the tax will be subject to consultations with property groups and the community.

When does the Vacant Residential Property Tax start?

The Vacant Residential Property Tax will apply from 1 January 2018. The transition arrangements for 2017 will be subject to consultation.

How will vacancy be reported?

The tax will be incorporated into the land tax legislative framework. Consistent with this framework, liability for the vacant residential property tax is self-reporting. That is, property owners are expected to inform the State Revenue Office when their property triggers the tax. The State Revenue Office will also undertake monitoring and compliance activities.

How is the Vacant Residential Property Tax calculated?

The Vacant Residential Property Tax will be a 1 per cent tax on the capital improved value of the taxable property. The capital improved value of a property is the value of land and buildings as determined every second year as part of the council valuation process.

The capital improved value of your property is displayed on your council rates notice. For example, if the taxable property has a capital improved value of $500,000, the applicable tax will be $5,000.

Who will have to pay the Vacant Residential Property Tax?

The Vacant Residential Property Tax will only apply to the owner of a property that is unoccupied for more than six months within a calendar year.

Are there any exemptions?

There will be a number of practical exemptions applied. These include properties used as holiday homes, those who need a city unit for work purposes, deceased estates, and homes owned by Victorians who are temporarily overseas.

Does the Vacant Residential Property Tax apply to all properties in Victoria?

The Vacant Residential Property Tax will only apply to vacant properties located in the inner and middle suburbs of Melbourne. Any vacant properties outside this area will not be subject to the tax. The local council areas where the tax is applicable is listed in Table 1, below.

Banyule	Bayside	Boroondara	Darebin
Glen Eira	Hobsons Bay	Manningham	Maribyrnong
Melbourne	Monash	Mooney Valley	Moreland
Port Phillip	Stonnington	Whitehorse	Yarra

There will be a period of consultation with industry bodies over the coming weeks to ensure the final design of the Vacant Property Tax is appropriately targeted. Once the consultation process is complete, more detailed information about the tax will be announced.

Annual Vacancy Fee

How the annual vacancy fee applies

Following recently introduced legislation, foreign owners of residential dwellings in Australia are required to pay an annual vacancy fee if their dwelling is not residentially occupied or rented out for more than 183 days (six months) in a year. For these purposes, the relevant year is the 'vacancy year', which is each successive period of 12 months starting from the first day the owner has the right to occupy the dwelling. A vacancy year is unique to each dwelling held by a taxpayer.

A dwelling is considered residentially occupied if, for at least 183 days in a vacancy year, any of the following circumstances are met:

- The owner or a relative of the owner genuinely occupied the dwelling as a residence
- The dwelling was genuinely occupied as a residence subject to lease or license for minimum terms of 30 days
- The dwelling was made genuinely available as a residence on the rental market (with minimum terms of 30 days).

The period of residential occupancy does not need to be one continuous block of time. Residential occupancy can be made up of multiple continuous periods of at least 30 days throughout the vacancy year. Further, dwellings made available for short term lease of less than 30 days (including via web based stay sites) are not considered residentially occupied and would not be taken into account in determining whether the 183 day threshold has been satisfied.

If a client can show that for at least 183 days in a vacancy year, the dwelling was incapable of being occupied as a residence they will not be liable to pay the vacancy fee. This may include circumstances where the property is damaged, undergoing renovations, where occupation of the property is restricted by law, or where the usual occupant was absent from the dwelling due to receiving long-term, in-patient, medical or residential care.

Foreign owners of residential property must lodge a vacancy fee return with the ATO within 30 days of the end of each vacancy year, regardless of whether they will be liable for the annual vacancy fee. To lodge a vacancy fee return an owner will need to be registered on the Land and Water Register.

Selling Properties valued at over $750,000

Sellers of all properties sold in Australia with a value over $750,000, with contracts entered into from 1 July 2017, will have to prove they are not a foreign resident, by obtaining a clearance certificate to show they are an Australian resident.

Should a clearance certificate not be obtained or the seller is a foreign resident 12.5 per cent of the purchase price would be required to be withheld and transferred to the ATO. If the property is worth more than $2 million, 10 percent of the sale proceeds would be withheld. The obligation will fall to the purchaser to withhold any tax.

The amount withheld is 'Foreign resident capital gains withholding' (FRCGW) and counts towards any capital gains tax payable.

The foreign resident must lodge a tax return at the end of the financial year, declaring any Australian income, including any profit from sale of the property. This measure has been introduced to assist in the collection of foreign residents' Australian tax liability.

Stamp Duty for Foreign Residents

If you are a foreign resident and purchase Australian residential property, in addition to Stamp Duty, you will also be required to pay additional duty. The amount of duty varies from State to State. For example in Victoria, the additional rate is 7 per cent.

CGT for non-residents

If you are a non-resident and dispose of 'taxable Australian property' (including houses, apartments and commercial buildings), you may need to pay capital gains tax (CGT) on any profit.

If the property was purchased prior to 8 May 2012, the CGT discount of 50% is available. If the property was purchased after 8 May 2012 the CGT discount will not apply.